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Attorneys for Defendant Truisfruit S.A.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NYKCOOL A.B.,

Plaintiff,

- against -

PACIFIC INTERNATIONAL SERVICES, INC., PAN
AMERICAN TRADING COMPANY, INC., FRUIT
IMPORTERS AMERICAS, INC., PACIFIC GROUP
HOLDING, INC., ECUADORIAN LINE, SOUTH
PACIFIC SHIPPING CO. LTD., ALVARO FERNANDO
NOBOA PONTON, CARLOS AGUIRRE, CARLOS
AHLSTROM, EDWARD HICKEY, ROBERT
KISSINGER, AND TRUISFRUIT S.A.,

Defendants,

- and -

PACIFIC FRUIT INC. and KELSO ENTERPRISES
LTD.,

Defendants-in-Interest.

12 Civ. 5754 (LAK)(AJP)

**NOTICE OF APPEAL
TO THE UNITED STATES
COURT OF APPEALS
FOR THE SECOND
CIRCUIT**

Defendant Truisfruit, S.A. hereby appeals to the United States Court of Appeals for the Second Circuit, pursuant to Rules 3, 4 and 6 of the Federal Rules of Appellate Procedure, the Judgment (the "Judgment") [Docket No. 151] entered by the United States District Court for the Southern District of New York (the "District Court") on March 18, 2014, in favor of Plaintiff NYKCool A.B. in the amount of \$8,787,157.00, together with interest and costs thereon, against Defendant Truisfruit, S.A. A copy of the Judgment is attached hereto as Exhibit A.

The names of all parties to this appeal, and the names, addresses and telephone numbers of their respective counsel, are as follows:

Defendant Truisfruit, S.A. and Counsel

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Attorneys for ADR Provider Maria C. Aguirre

Dated: New York, New York
April 17, 2014

VANDENBERG & FELIU LLP

/s/

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Attorneys for Defendant Truistruit S.A.

APPEAL, CASREF, ECF, RELATED

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:12-cv-05754-LAK-AJP**

NYKCool A.B. v. Pacific International Services, Inc. et al

Assigned to: Judge Lewis A. Kaplan

Referred to: Magistrate Judge Andrew J. Peck

Demand: \$8,787,000

Related Case: 1:10-cv-03867-LAK

Cause: 28:1333 Admiralty

Plaintiff

NYKCool A.B.

Date Filed: 07/26/2012

Jury Demand: Plaintiff

Nature of Suit: 120 Contract: Marine

Jurisdiction: Federal Question

represented by **Edward A. Keane**
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V.

Defendant

Pacific International Services, Inc.

TERMINATED: 06/14/2013

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Defendant

Pan American Trading Company, Inc.

TERMINATED: 06/14/2013

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Caspar Friedrich Ewig

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Defendant

Fruit Importers Americas, Inc.
TERMINATED: 06/14/2013

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Defendant

Pacific Group Holding, Inc.
TERMINATED: 06/14/2013

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Defendant

Ecuadorian Line, Inc.
TERMINATED: 06/14/2013

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Defendant

Truisfruit S.A.
TERMINATED: 03/18/2014

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ADR Provider

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PRO HAC VICE
ATTORNEY TO BE NOTICED

Interested Party

Pacific Fruit Inc.

Interested Party

Kelso Enterprises Ltd.

Date Filed	#	Docket Text
07/26/2012	<u>1</u>	COMPLAINT against Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Filing Fee \$ 350.00, Receipt Number 1044794) Document filed by NYKCool A.B. (mro) (lmb). (Entered: 08/03/2012)
07/26/2012		SUMMONS ISSUED as to Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd. (mro) (Entered: 08/03/2012)
07/26/2012		CASE REFERRED TO Judge Lewis A. Kaplan as possibly similar to 1:10-cv-3867-LAK. (mro) (Entered: 08/03/2012)
07/26/2012		Case Designated ECF. (mro) (Entered: 08/03/2012)
08/03/2012		***NOTE TO ATTORNEY TO E-MAIL PDF. Note to Attorney Edward A. Keane for noncompliance with Section 14.3 of the S.D.N.Y. Electronic Case Filing Rules & Instructions. E-MAIL the PDF for Document <u>1</u> Complaint, to: caseopenings@nysd.uscourts.gov. (mro) (Entered: 08/03/2012)
08/06/2012	<u>2</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Ecuadorian Line, Inc. served on 7/31/2012, answer due 8/21/2012. Service was accepted by EDWARD HICKEY. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/06/2012	<u>3</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE DOCUMENT #12) – AFFIDAVIT OF SERVICE of Summons and Complaint,. Pacific Group Holding, Inc. served on 7/31/2012, answer due 8/21/2012. Service was accepted by

		EDWARD HICKEY. Document filed by Pacific Group Holding, Inc.. (Keane, Edward) Modified on 8/10/2012 (ldi). (Entered: 08/06/2012)
08/06/2012	<u>4</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE DOCUMENT #13) – AFFIDAVIT OF SERVICE of Summons and Complaint,. Fruit Importers Americas, Inc. served on 7/31/2012, answer due 8/21/2012. Service was accepted by EDWARD HICKEY. Document filed by Fruit Importers Americas, Inc.. (Keane, Edward) Modified on 8/10/2012 (ldi). (Entered: 08/06/2012)
08/06/2012	<u>5</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE DOCUMENT #11) – AFFIDAVIT OF SERVICE of Summons and Complaint,. Pacific International Services, Inc. served on 7/31/2012, answer due 8/21/2012. Service was accepted by EDWARD HICKEY. Document filed by Pacific International Services, Inc.. (Keane, Edward) Modified on 8/10/2012 (ldi). (Entered: 08/06/2012)
08/06/2012	<u>6</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE DOCUMENT #10) – AFFIDAVIT OF SERVICE of Summons and Complaint,. Carlos Aguirre served on 7/30/2012, answer due 8/20/2012. Service was accepted by CARLOS AGUIRRE. Document filed by Carlos Aguirre. (Keane, Edward) Modified on 8/10/2012 (ldi). (Entered: 08/06/2012)
08/06/2012	<u>7</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Pan American Trading Company, Inc. served on 7/31/2012, answer due 8/21/2012. Service was accepted by EDWARD HICKEY. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/06/2012	<u>8</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Edward Hickey served on 7/30/2012, answer due 8/20/2012. Service was accepted by EDWARD HICKEY. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/06/2012	<u>9</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. South Pacific Shipping Co. Ltd. served on 7/31/2012, answer due 8/21/2012. Service was accepted by EDWARD HICKEY. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/06/2012	<u>10</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Service was accepted by CARLOS AGUIRRE. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/06/2012	<u>11</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Service was accepted by EDWARD HICKEY. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/06/2012	<u>12</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Service was accepted by EDWARD HICKEY. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/06/2012	<u>13</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Service was accepted by EDWARD HICKEY. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/06/2012)
08/17/2012	<u>14</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Ecuadorian Line, Inc. served on 7/30/2012, answer due 8/21/2012. Service was accepted by Elena Bou. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 08/17/2012)
08/20/2012	<u>15</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd..(Ewig, Caspar) (Entered: 08/20/2012)
08/20/2012	<u>16</u>	FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9. Document filed by Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Attachments: # <u>1</u> Exhibit

		Verified Complaint)(Ewig, Caspar) (Entered: 08/20/2012)
08/20/2012	<u>17</u>	FIRST MEMORANDUM OF LAW in Support re: <u>16</u> FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9.FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9.. Document filed by Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Ewig, Caspar) (Entered: 08/20/2012)
08/20/2012	<u>18</u>	NOTICE OF APPEARANCE by Michael D. Wilson on behalf of Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd. (Wilson, Michael) (Entered: 08/20/2012)
08/20/2012	<u>19</u>	NOTICE of Amended Notice of Appearance. Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, NYKCool A.B., Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Ewig, Caspar) (Entered: 08/20/2012)
08/20/2012	<u>20</u>	NOTICE of Amended Notice of Appearance of C. Ewig. Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Ewig, Caspar) (Entered: 08/20/2012)
08/20/2012	<u>21</u>	NOTICE of Amended Rule 7.1 Statement. Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Ewig, Caspar) (Entered: 08/20/2012)
09/04/2012	<u>22</u>	MEMORANDUM OF LAW in Opposition re: <u>16</u> FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9.FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9.. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 09/04/2012)
09/05/2012	<u>23</u>	ORDER OF REFERENCE TO A MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement) and Dispositive Motion (i.e., motion requiring a Report and Recommendation). Referred to Magistrate Judge Andrew J. Peck. Motions referred to Andrew J. Peck. (Signed by Judge Lewis A. Kaplan on 9/5/2012) (ja) (Entered: 09/05/2012)
09/05/2012	<u>24</u>	STIPULATION ADJOURNING ANSWERING PAPERS TO FRCP RULES 12(b)(6) & 9 MOTION: in the subject action that the Answer of Plaintiff to Movants' Motion to Dismiss pursuant to FRCP Rules 12(b)(6) & 9 dated August 20, 2012 be adjourned from September 4, 2012 until September 10, 2012. (Responses due by 9/10/2012) (Signed by Judge Lewis A. Kaplan on 9/4/2012) (ja) (Entered: 09/05/2012)
09/06/2012		CASE ACCEPTED AS RELATED. Create association to 1:10-cv-03867-LAK. Notice of Assignment to follow. (pgu) (Entered: 09/06/2012)
09/06/2012	<u>25</u>	NOTICE OF CASE ASSIGNMENT to Judge Lewis A. Kaplan. Judge Unassigned is no longer assigned to the case. (pgu) (Entered: 09/06/2012)
09/06/2012		Magistrate Judge Andrew J. Peck is so designated. (pgu) (Entered: 09/06/2012)
09/07/2012	<u>26</u>	RULE 16 IPTC SCHEDULING ORDER: Pursuant to Rule 16, Fed. R. Civ. P., IT IS HEREBY ORDERED THAT: All fact and expert discovery must be completed by December 20, 2012. Expert reports must be served by November 9, 2012 plaintiff, December 3, 2012 defendants. Mandatory initial disclosure pursuant to Rule 26(a)(1), Fed. R. Civ. P., is due September 20, 2012. The parties shall discuss any issues with respect to electronic discovery, complete the Joint Electronic Discovery Submission (Ex. B) to the extent applicable to the case and submit it to

		the Court by September 27,2012. Each party will notify this Court by December 21, 2012 as to whether it intends to move for summary judgment. Summary judgment motions must be filed by January 21,2013, and must comply with the Federal Rules of Civil Procedure, the Local Rules of this Court, and my chamber rules. The parties are to submit a joint proposed pretrial order, in conformance with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the chamber rules of the District Judge to whom this case is assigned, by January 21, 2013 if neither party is moving for summary judgment, or 30 days after decision on the summary judgment motion. The case will be considered trial ready on 24-hours notice after the pretrial order has been submitted. The parties are directed to follow the "Individual Practices of Magistrate Judge Andrew J. Peck," a copy of which is enclosed. SO ORDERED.Motions due by 1/21/2013. Fact Discovery due by 12/20/2012. Expert Discovery due by 11/9/2012. Status Conference set for 10/2/2012 at 10:00 AM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck. (Signed by Magistrate Judge Andrew J. Peck on 9/07/2012) Copies Sent By Chambers. (ama) (Entered: 09/07/2012)
09/11/2012	<u>27</u>	REPLY MEMORANDUM OF LAW in Support re: <u>16</u> FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9.FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9.. Document filed by Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Wilson, Michael) (Entered: 09/11/2012)
09/27/2012	<u>28</u>	RULE 26(f) DISCOVERY PLAN REPORT.Document filed by NYKCool A.B..(Wolfson, Garth) (Entered: 09/27/2012)
10/02/2012		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 10/2/2012. Defendant to advise if will accept service on Noboa by 10/5. If not, plaintiff can use alternate website/email service. Defendants to answer complaint (without prejudice to motion) by 10/2. AJP rejects EDisc plan; new EDisc plan due by 10/12. Response re section 636(c) by 10/12. Status conf. 11/7 at 9:30 am. (mro) (Entered: 10/11/2012)
10/11/2012	<u>29</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 10/2/2012 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Eve Giniger, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/5/2012. Redacted Transcript Deadline set for 11/16/2012. Release of Transcript Restriction set for 1/14/2013.(McGuirk, Kelly) (Entered: 10/11/2012)
10/11/2012	<u>30</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 10/2/12 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 10/11/2012)
10/16/2012	<u>31</u>	JOINT ELECTRONIC DISCOVERY SUBMISSION NO. 2 AND ORDER : One or more of the parties to this litigation have indicated that they believe that relevant information may exist or be stored in electronic format, and that this content is potentially responsive to current or anticipated discovery requests. This Joint Submission and Order (and any subsequent ones) shall be the governing document(s) by which the parties and the Court manage the electronic discovery process in this action. The parties and the Court recognize that this Joint Electronic Discovery Submission No. 2 and Order is based on facts and circumstances as they are currently known to each party, that the electronic discovery process is iterative, and that additions and modifications to this Submission may become necessary as more information becomes known to the parties; and as further set forth in paragraphs 1 through 8 of this order. (Signed by Magistrate Judge Andrew J. Peck on 10/16/12) (mt) (Entered: 10/16/2012)

10/19/2012	<u>32</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 10/2/2012 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Eve Giniger, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/13/2012. Redacted Transcript Deadline set for 11/26/2012. Release of Transcript Restriction set for 1/22/2013.(Moya, Goretti) (Entered: 10/19/2012)
10/19/2012	<u>33</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 10/2/12 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Moya, Goretti) (Entered: 10/19/2012)
10/26/2012	<u>34</u>	ANSWER to <u>1</u> Complaint,. Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd..(Wilson, Michael) (Entered: 10/26/2012)
10/26/2012	<u>35</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Michael D. Wilson dated 10/26/2012 re: If the Court prefers the undersigned to attend the conference, we request that it be rescheduled for later in the day or on a subsequent day. ENDORSEMENT: I am on Criminal Duty on 11/7 and so do not have time later in the day. The conf. remains set for 11/7 at 9:30 AM. (Signed by Magistrate Judge Andrew J. Peck on 10/26/2012) (lmb) (Entered: 10/26/2012)
11/07/2012		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 11/7/2012. Disc. cutoff 1/11/13 (expert reports 11/26 plaintiff, 12/14 defendants), SJ notice 1/15/13, SJ motion or PTO 1/30/13. Status conf. to be held before Judge Peck on 11/27 at 9:30 AM., (Discovery due by 1/11/2013., Motions due by 1/30/2013., Pretrial Order due by 1/30/2013.), (Status Conference set for 11/27/2012 at 09:30 AM before Magistrate Judge Andrew J. Peck.) (lmb) (Entered: 11/20/2012)
11/09/2012	<u>36</u>	REPORT AND RECOMMENDATION: For the reasons stated above, defendants' motion to dismiss (Dkt. No. 16) should be GRANTED in part and DENIED in part. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable Lewis A. Kaplan, 500 Pearl Street, Room 2240, and to my chambers, 500 Pearl Street, Room 1370. Any requests for an extension of time for filing objections must be directed to Judge Kaplan (with a courtesy copy to my chambers). Failure to file objections will result in a waiver of those objections for purposes of appeal Objections to RRdue by 11/29/2012 (Signed by Magistrate Judge Andrew J. Peck on 11/09/2012) (ago) (Entered: 11/09/2012)
11/13/2012	<u>37</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 11/7/2012 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Alena Lynch, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/7/2012. Redacted Transcript Deadline set for 12/17/2012. Release of Transcript Restriction set for 2/14/2013.(Moya, Goretti) (Entered: 11/13/2012)
11/13/2012	<u>38</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 11/7/2012 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar

		days...(Moya, Goretti) (Entered: 11/13/2012)
11/21/2012	<u>39</u>	OBJECTION to <u>36</u> Report and Recommendations Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 11/21/2012)
11/27/2012	<u>40</u>	RESPONSE re: <u>39</u> Objection to Report and Recommendations <i>Response to Plaintiff's Objections To Report and recommendation</i> . Document filed by Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Wilson, Michael) (Entered: 11/27/2012)
11/27/2012		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 11/27/2012. Status conf. to be held before Judge Peck on 12/20 at 10 am. (cd) (Entered: 12/06/2012)
11/27/2012		Set/Reset Hearings: Status Conference set for 12/20/2012 at 10:00 AM before Magistrate Judge Andrew J. Peck. (cd) (Entered: 12/06/2012)
12/03/2012	<u>41</u>	STIPULATION AND ORDER PURSUANT TO FEDERAL RULE OF EVIDENCE 502: For purposes of this Stipulation and Order, an "Inadvertently Produced Document" is a document produced, irrespective of care, to a party in this litigation that could have been withheld. in whole or in part, based on a legitimate claim of attorney-client privilege, work-product protection, or other applicable privilege. Inclusion of any Inadvertently Produced Document in a production shall not result in the waiver of any privilege or protection associated with such document nor result in a subject matter waiver of any kind in this or any other proceeding. Inclusion of any Inadvertently Produced Document in a production shall not result in the waiver of any privilege or protection associated with such document nor result in a subject matter waiver of any kind in this or any other proceeding. A producing party may demand the return of any Inadvertently Produced Document, which demand shall be made to the receiving party's counsel in writing and shall contain information sufficient to identify the Inadvertently Produced Document. Within five (5)business days of the demand for the Inadvertently Produced Document, the producing party shall provide the receiving party with a privilege log for such document that is consistent with the requirements of the Federal Rules of Civil Procedure, setting forth the basis for the claim of privilege for the Inadvertently Produced Document. All other provisions as further set forth in this order (Signed by Magistrate Judge Andrew J. Peck on 12/3/2012) (js) (Entered: 12/03/2012)
12/04/2012	<u>42</u>	ORDER: Plaintiff's objections to the report and recommendation of Magistrate Judge Andrew J. Peck, dated November 9, 2012, are overruled, as there was no error of fact or law. Defendants' motion to dismiss plaintiffs fourth claim for relief [DI 16] is granted to the extent that the claim is dismissed in all respects save insofar as it seeks to recover for attorneys' fees and related expenses expended in attempting to collect the underlying judgment. It is denied in all other respects. It of course is true, as plaintiffs argue, that efforts to collect on a judgment, the collection of which has been rendered difficult by alleged wrong doing, often will not have as neat and definitive an end as the conclusion of a bankruptcy of a judgment debtor, at which point a loss attributable to collection frustration efforts may be quantified definitively. But this is not a situation in which plaintiff has nothing more than a theoretical possibility of someday realizing on theoretical claims that someday might be brought against theoretical fraudulent transferees. Plaintiff is actively pursuing claims in this very action against very real alleged fraudulent transferees based on what appears to be at least some evidence that very real fraudulent transfers occurred. At least in this posture, the case is governed by the authorities relied upon by the magistrate judge. (Signed by Judge Lewis A. Kaplan on 12/4/2012) (js) (Entered: 12/04/2012)
12/05/2012	<u>43</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 11/27/2012 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Jennifer Thun, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/2/2013. Redacted Transcript Deadline set for 1/10/2013. Release of Transcript Restriction set for 3/8/2013.(Rodriguez, Somari) (Entered: 12/05/2012)

		12/05/2012)
12/05/2012	<u>44</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 11/27/2012 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 12/05/2012)
12/13/2012	<u>45</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Brian P.R. Eisenhower dated 12/12/2012 re: Accordingly, we would respectfully request that the Court permit a further extension of time, beyond the current date of December 14, for production of electronically stored documents. Plaintiff's counsel stated that he would not object if responding defendants applied for an extension. In the event that the Court is inclined to extend the time in light of the aforementioned circumstances, we would propose to discuss the discovery deadlines at the next conference scheduled for December 20, 2012 and in the interim to continue efforts to resolve the outstanding issue with Plaintiff's counsel. ENDORSEMENT: This is what happens when counsel do not address ediscovery issues up front. Extension granted to 12/28/2012. Any open issues will be resolved by me at the 12/20/2012 conference to which you both must bring your ediscovery consultants and defendants' in house personnel knowledgeable about the ESI issues. So Ordered. (Signed by Magistrate Judge Andrew J. Peck on 12/13/2012) (js) Modified on 12/14/2012 (js). (Entered: 12/13/2012)
12/18/2012	<u>46</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Edward A. Keane dated 12/18/2012 re: We respectfully request we be permitted to have the attendance of Ms. Karen Anderson be by telephone. ENDORSEMENT: It is not ideal but the 2 vendors can appear telephonically this time – both need to be on the same phone line and call 212-805-0036 at the time of the conference. Counsel (and vendors) should use the time between now and the 12/20 conference to try to cooperate and resolve as many E Discovery issues as possible. (Signed by Magistrate Judge Andrew J. Peck on 12/18/2012) Copies Sent By Chambers via ECF. (rjm) (Entered: 12/18/2012)
12/18/2012		Set/Reset Hearings: Telephone Conference set for 12/20/2012 at 10:00 AM before Magistrate Judge Andrew J. Peck. (rjm) (Entered: 12/18/2012)
12/20/2012		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 12/20/2012. Disc cutoff 1/25/13. SJ motion or PTO 2/12/13. parties to contact if disputes or re settlement. (cd) (Entered: 12/26/2012)
01/31/2013	<u>47</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Edward A. Keane dated 1/30/2013 re: Plaintiff does wish to file a motion for summary judgment. ENDORSEMENT: Approved. SJ Motion due 2/15/13. The parties should notify my chambers if they want a settlement conf. in light of the 2nd Circuit's denial of Pacific's appeal. (Motion due by 2/15/2013.) (Signed by Magistrate Judge Andrew J. Peck on 1/31/2013) (cd) (Entered: 01/31/2013)
02/15/2013	<u>48</u>	NOTICE OF APPEARANCE by Garth S. Wolfson on behalf of NYKCool A.B. (Wolfson, Garth) (Entered: 02/15/2013)
02/15/2013	<u>49</u>	MOTION for Summary Judgment. Document filed by NYKCool A.B..(Wolfson, Garth) (Entered: 02/15/2013)
02/15/2013	<u>50</u>	DECLARATION in Support re: <u>49</u> MOTION for Summary Judgment.. Document filed by NYKCool A.B.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3 (Part 1), # <u>4</u> Exhibit 3 (Part 2), # <u>5</u> Exhibit 3 (Part 3), # <u>6</u> Exhibit 3 (Part 4), # <u>7</u> Exhibit 3 (Part 5), # <u>8</u> Exhibit 4 (Part 1), # <u>9</u> Exhibit 4 (Part 2), # <u>10</u> Exhibit 4 (Part 3), # <u>11</u> Exhibit 5 (Part 1), # <u>12</u> Exhibit 5 (Part 2), # <u>13</u> Exhibit 6 (Part 1), # <u>14</u> Exhibit 6 (Part 2), # <u>15</u> Exhibit 6 (Part 3), # <u>16</u> Exhibit 7, # <u>17</u> Exhibit 8, # <u>18</u> Exhibit 9, # <u>19</u> Exhibit 10, # <u>20</u> Exhibit 11, # <u>21</u> Exhibit 12)(Wolfson, Garth) (Entered: 02/15/2013)
02/15/2013	<u>51</u>	MEMORANDUM OF LAW in Support re: <u>49</u> MOTION for Summary Judgment.. Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 02/15/2013)

02/20/2013	<u>52</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Edward A. Keane dated 2/15/2013 re: NYKCool's Motion for Summary Judgment and supporting papers. ENDORSEMENT: Defendants' opposition papers are due by 3/1 and plaintiffs reply papers are due by 3/8. Set Deadlines/Hearing as to <u>49</u> MOTION for Summary Judgment. (Responses due by 3/1/2013, Replies due by 3/8/2013.) (Signed by Magistrate Judge Andrew J. Peck on 2/20/2013) Copies Sent By ECF By Chambers. (cd) (Entered: 02/20/2013)
02/28/2013	<u>53</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Michael D. Wilson dated 2/28/2013 re: Because my partner, who has been assisting in this matter has been out of the office for the last several weeks, we are encountering difficulty in completing preparation of the opposition and request a one-week extension of time, to March 8, 2013 to submit the opposition. ENDORSEMENT: Extension granted. Defendants' opposition papers are due by Friday, March 8, 2013. Plaintiff's reply papers are due by Friday March 15, 2013. (Signed by Magistrate Judge Andrew J. Peck on 2/28/2013) (mt) (Entered: 02/28/2013)
02/28/2013		Set/Reset Deadlines: Responses due by 3/8/2013 Replies due by 3/15/2013. (mt) (Entered: 02/28/2013)
03/06/2013	<u>54</u>	NOTICE OF CHANGE OF ADDRESS by Edward A. Keane on behalf of NYKCool A.B.. New Address: MAHONEY & KEANE, LLP, 40 Worth Street, Tenth Floor, New York, New York, USA 10013, 212-385-1422. (Keane, Edward) (Entered: 03/06/2013)
03/08/2013	<u>55</u>	AFFIRMATION of Michael Wilson in Opposition re: <u>49</u> MOTION for Summary Judgment.. Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Attachments: # <u>1</u> Exhibit Hickey Declaration, # <u>2</u> Exhibit Quinn Declaration)(Ewig, Caspar) (Entered: 03/08/2013)
03/08/2013	<u>56</u>	FILING ERROR – WRONG EVENT TYPE SELECTED FROM MENU – DECLARATION of Defendants' Response to Rule 56.1 Statement in Opposition re: <u>49</u> MOTION for Summary Judgment.. Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Ewig, Caspar) Modified on 3/11/2013 (Idi). (Entered: 03/08/2013)
03/08/2013	<u>57</u>	MEMORANDUM OF LAW in Opposition re: <u>49</u> MOTION for Summary Judgment.. Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Ewig, Caspar) (Entered: 03/08/2013)
03/08/2013		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – EVENT TYPE ERROR. Note to Attorney Caspar Friedrich Ewig to RE-FILE Document <u>56</u> Declaration in Opposition to Motion. Use the event type Counter Statement to Rule 56.1 found under the event list Other Answers. (Idi) (Entered: 03/11/2013)
03/11/2013	<u>58</u>	ORDER: IT IS HEREBY ORDERED that defendants submit a revised Rule 56.1 Statement to the Court by close of business Wednesday, March 13, 2013. NYKCool's reply papers remain due on Friday, March 15, 2013. (Signed by Magistrate Judge Andrew J. Peck on 3/11/2013) Copies Sent Via ECF to all counsel By Chambers. (js) (Entered: 03/11/2013)
03/13/2013	<u>59</u>	COUNTER STATEMENT TO Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Ewig, Caspar) (Entered: 03/13/2013)
03/15/2013	<u>60</u>	REPLY AFFIRMATION in Support re: <u>49</u> MOTION for Summary Judgment.. Document filed by NYKCool A.B.. (Attachments: # <u>1</u> Part II)(Wolfson, Garth) (Entered: 03/15/2013)
03/15/2013	<u>61</u>	REPLY MEMORANDUM OF LAW in Support re: <u>49</u> MOTION for Summary Judgment.. Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 03/15/2013)

		03/15/2013)
03/29/2013	<u>62</u>	REPORT AND RECOMMENDATIONS: For the reasons stated above, NYKCool's summary judgment motion (Dkt. No. 49) should be GRANTED as to the corporate defendants. Objections to RR due by 4/15/2013 (Signed by Magistrate Judge Andrew J. Peck on 3/29/2013) (js) (Entered: 03/29/2013)
04/04/2013	<u>63</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Caspar F. Ewig dated 4/3/2013 re: The foregoing request is made solely to correct a ministerial oversight in the Report and Recommendation and is made without prejudice to any other rights which the defendants represented by this office may otherwise assert in connection with a motion to affirm or reject the Report and Recommendation. ENDORSEMENT: On NYKCool's consent (see their 4/4/13 letter), the decretal paragraph on page 26 of the RR is revised as per above. This does not change the deadline for objections to the RSO ORDERED. (Signed by Magistrate Judge Andrew J. Peck on 4/4/2013) Copies Sent By Chambers. (rsh) (Entered: 04/04/2013)
04/10/2013	<u>64</u>	Letter addressed to Magistrate Judge Andrew J. Peck from Edward A. Keane dated 4/4/2013 re: We write with respect to the letter of April 3, 2013 from Messrs. Hill Rifkin regarding the referenced matter. It seeks an amendment to the R & R issued by your Honor at page 26. We do not object to the ministerial relief requested, but without prejudice to the position asserted by the Plaintiff, that defendants Ecuadorian Line, Inc. and South Pacific Shipping Co., Ltd. do business as each other and are otherwise not separate legal entities, which position is maintained. We otherwise reserve all rights of the Plaintiff with respect to the referenced Report and Recommendation. (ago) (Entered: 04/12/2013)
04/12/2013	<u>65</u>	Objection re: <u>62</u> Report and Recommendations, (<i>Partial</i>). Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 04/12/2013)
04/15/2013	<u>66</u>	OBJECTION to <u>62</u> Report and Recommendations Document filed by Ecuadorian Line, Inc.. (Wilson, Michael) (Entered: 04/15/2013)
04/23/2013	<u>67</u>	RESPONSE re: <u>65</u> Objection (non-motion), <u>62</u> Report and Recommendations, <i>RESPONSE OF DEFENDANTS CARLOS AGUIRRE AND EDWARD HICKEY TO PLAINTIFF'S PARTIAL OBJECTIONS TO REPORT AND RECOMMENDATION</i> . Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Wilson, Michael) (Entered: 04/23/2013)
04/26/2013	<u>68</u>	RESPONSE to <i>Objections</i> . Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 04/26/2013)
06/14/2013	<u>69</u>	ORDER granting in part and denying in part <u>49</u> Motion for Summary Judgment. Plaintiff's motion for summary judgment (DI 49) is granted with respect to defendants PISI, PAI, FIA, PGH, and Ecuadorian as well as defendants-in-interest Pacific and Kelso. It is denied as to defendants South Pacific Shipping Co., Ltd., Aguirre and Hickey. The Court finds no just reason for delay, as plaintiff long has been frustrated in its efforts to collect more than \$8 million be the actions of the defendants against him this motion should be granted and should not be further prejudiced by the continued pendency of the action against the remaining defendants. Plaintiff shall settle a judgment on two days notice which shall include a certificate pursuant to Fed. R. Civ. P. 54(b). (Signed by Judge Lewis A. Kaplan on 6/14/2013) (mro) (Entered: 06/17/2013)
06/24/2013	<u>70</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – NOTICE of Settlement. Document filed by NYKCool A.B.. (Keane, Edward) Modified on 7/2/2013 (db). (Entered: 06/24/2013)
06/24/2013	<u>71</u>	NOTICE of Settlement. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 06/24/2013)
06/26/2013	<u>72</u>	LETTER addressed to Judge Lewis A. Kaplan from Michael D. Wilson dated 6/25/13 re: Defendants object to the proposed judgment to the extent it seeks entry of judgment against Pacific Fruit, Inc. and Kelso Enterprises, Ltd. Judgment

		against those entities was entered in the prior action before Your Honor, 10 Civ. 3867, and we do not believe the Court's June 14, 2013 Order intended to direct entry of an additional judgment against them. Further, while designated "defendants-in-interest" neither Pacific Fruit nor Kelso have been served with process in this action. (mro) (Entered: 06/26/2013)
07/10/2013	<u>73</u>	JUDGMENT PURSUANT TO RULE 54(B) OF THE FEDERAL RULES OF CIVIL PROCEDURE #13,1392: in favor of NYKCool A.B. against Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc. in the amount of \$ 8,787,157.00. (Signed by Judge Lewis A. Kaplan on 6/26/13) (Attachments: # <u>1</u> Notice of Right to Appeal)(dt) (Entered: 07/10/2013)
07/15/2013	<u>74</u>	NOTICE OF APPEAL from <u>73</u> Judgment, <u>69</u> Order on Motion for Summary Judgment,,, Document filed by Ecuadorian Line, Inc.. Filing fee \$ 455.00, receipt number 0208-8689344. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Wilson, Michael) (Entered: 07/15/2013)
07/15/2013		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>74</u> Notice of Appeal,. (nd) (Entered: 07/15/2013)
07/15/2013		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>32</u> Transcript,, <u>27</u> Reply Memorandum of Law in Support of Motion, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Alvaro Fernando Noboa Ponton, Robert Kissinger, Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Edward Hickey, Carlos Ahlstrom, <u>10</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>50</u> Declaration in Support of Motion,, filed by NYKCool A.B., <u>45</u> Endorsed Letter,,, <u>38</u> Notice of Filing Transcript,, <u>13</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>15</u> Rule 7.1 Corporate Disclosure Statement, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Alvaro Fernando Noboa Ponton, Robert Kissinger, Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, Carlos Ahlstrom, <u>60</u> Reply Affirmation in Support of Motion filed by NYKCool A.B., <u>20</u> Notice (Other), Notice (Other) filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>35</u> Endorsed Letter, <u>65</u> Objection (non-motion) filed by NYKCool A.B., <u>43</u> Transcript,, <u>52</u> Endorsed Letter, Set Motion and RRDeadlines/Hearings,, <u>4</u> Affidavit of Service Complaints, filed by Fruit Importers Americas, Inc., <u>59</u> Counter Statement to Rule 56.1 filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>24</u> Stipulation and Order, Set Deadlines/Hearings,, <u>48</u> Notice of Appearance filed by NYKCool A.B., <u>62</u> Report and Recommendations, <u>30</u> Notice of Filing Transcript, <u>12</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>67</u> Response, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>58</u> Order, <u>31</u> Order,,, <u>2</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>28</u> Rule 26(f) Discovery Plan Report filed by NYKCool A.B., <u>57</u> Memorandum of Law in Opposition to Motion, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>23</u> Order Referring Case to Magistrate Judge, <u>42</u> Order on Motion to Dismiss,,,,, <u>16</u> FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9.FIRST MOTION to Dismiss Pursuant to FRCP Rules 12(b)(6) and 9. filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Alvaro Fernando Noboa Ponton, Robert Kissinger, Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, Carlos Ahlstrom, <u>53</u> Endorsed Letter,, <u>63</u> Endorsed Letter,, <u>29</u> Transcript,, <u>25</u> Notice of Case Assignment/Reassignment, <u>14</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>54</u> Notice of Change of Address filed by NYKCool A.B., <u>22</u> Memorandum of Law in Opposition to Motion filed by

		<p>NYKCool A.B., <u>51</u> Memorandum of Law in Support of Motion filed by NYKCool A.B., <u>1</u> Complaint, filed by NYKCool A.B., <u>7</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>19</u> Notice (Other), Notice (Other) filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, NYKCool A.B., <u>40</u> Response, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, Carlos Ahlstrom, <u>17</u> Memorandum of Law in Support of Motion, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Alvaro Fernando Noboa Ponton, Robert Kissinger, Pacific International Services, Inc., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, Carlos Ahlstrom, <u>8</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>70</u> Notice of Settlement filed by NYKCool A.B., <u>36</u> Report and Recommendations, <u>21</u> Notice (Other), Notice (Other) filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>73</u> Judgment, <u>44</u> Notice of Filing Transcript, <u>18</u> Notice of Appearance, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Alvaro Fernando Noboa Ponton, Robert Kissinger, Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, Carlos Ahlstrom, <u>39</u> Objection to Report and Recommendations filed by NYKCool A.B., <u>49</u> MOTION for Summary Judgment. filed by NYKCool A.B., <u>68</u> Response filed by NYKCool A.B., <u>9</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>34</u> Answer to Complaint, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Robert Kissinger, Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>74</u> Notice of Appeal, filed by Ecuadorian Line, Inc., <u>72</u> Letter, <u>37</u> Transcript, <u>56</u> Declaration in Opposition to Motion, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>66</u> Objection to Report and Recommendations filed by Ecuadorian Line, Inc., <u>3</u> Affidavit of Service Complaints, filed by Pacific Group Holding, Inc., <u>71</u> Notice of Settlement filed by NYKCool A.B., <u>41</u> Stipulation and Order, <u>46</u> Endorsed Letter, <u>55</u> Affirmation in Opposition to Motion, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Pacific International Services, Inc., Ecuadorian Line, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, <u>61</u> Reply Memorandum of Law in Support of Motion filed by NYKCool A.B., <u>33</u> Notice of Filing Transcript, <u>69</u> Order on Motion for Summary Judgment, <u>5</u> Affidavit of Service Complaints, filed by Pacific International Services, Inc., <u>11</u> Affidavit of Service Complaints filed by NYKCool A.B., <u>26</u> Scheduling Order, <u>6</u> Affidavit of Service Complaints, filed by Carlos Aguirre, <u>47</u> Endorsed Letter, Set Deadlines/Hearings, were transmitted to the U.S. Court of Appeals. (nd) (Entered: 07/15/2013)</p>
07/24/2013		<p>Writ of Execution Issued as to Pacific International Services, Inc., Pan American Trading Company, Inc., Fruit Importers Americas, Inc., Pacific Goup Holding, Inc. and Ecuadorian Line, Inc. on 7/24/2013 Judgment # 13,1392 in the amount of \$ 8,787,157.00 in favor of NYKCool A.B. against Pacific International Services, Inc., Pan American Trading Company, Inc., Fruit Importers Americas, Inc., Pacific Group Holding, Inc. and Ecuadorian Line, Inc. (Signed by Clerk of Court Ruby Krajick on 7/24/2013) (dt) (Entered: 07/24/2013)</p>
08/01/2013	<u>75</u>	<p>ORDER FOR ISSUANCE OF ATTACHMENT AND GARNISHMENT: IT I S HEREBY ORDERED that, pursuant to CPLR 6201 (1) and CPLR 6211, all banana cargoes entering the Port of New York under the "Bonita" brand, as well as all goods, rights, services, obligations, trusts, rights to payment or profits, chattels, credits, letters of credit, bills of lading, debts, effects and monies, funds, accounts, freights, sub-freights, charter hire, sub-charter hire, or any other tangible or intangible property belonging to, claimed by, being held for or on behalf or otherwise for the benefit of NOBOA, AGUIRRE, HICKEY, and each of them, by any garnishee within this district upon whom this order of attachment is served up to the amount of \$8,787,157 shall be attached and seized; And as set forth herein.</p>

		SO ORDERED. (Signed by Part I Judge J. Paul Oetken on 8/01/2013) (ama) Modified on 8/1/2013 (ama). (Entered: 08/01/2013)
08/01/2013	<u>76</u>	ORDER TO SHOW CAUSE: Defendants: PACIFIC INTERNATIONAL SERVICES, INC., PANAMERICAN TRADING COMPANY, INC., FRUIT IMPORTERS AMERICAS, INC., PACIFIC GROUP HOLDING, INC., ECUADORIAN LINE, INC., ALVARO FERNANDO NOBOA PONTON, CARLOS AGUIRRE, and EDWARD HICKEY shall show cause as to why can be heard why an Order shall not be entered enjoining the said defendants from further dissipation, alienation, and/or secreting of the defendant judgment debtors' assets and/ or rights to use of the "Bonita" brands of bananas; setting aside the fraudulent transfer of the Bonita business; appointing a receiver under Section 5228 of the New York Civil Practice Law and Rules to administer the judgment debtors' business and the use of the "Bonita" brands of bananas, granting to plaintiff such other and different relief as to the Court may seem just and proper. Show Cause Hearing set for 8/14/2013 at 02:30 PM before Judge Lorna G. Schofield (Signed by Part I Judge J. Paul Oetken on 8/01/2013) (ama) Modified on 8/9/2013 (ama). (Entered: 08/01/2013)
08/09/2013	<u>77</u>	DECLARATION of EDWARD HICKEY re: <u>76</u> Order to Show Cause, Set Deadlines/Hearings,,,,,, <i>DECLARATION OF DEWARD HICKEY</i> . Document filed by Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Group Holding, Inc., Pacific International Services, Inc., Pan American Trading Company, Inc.. (Wilson, Michael) (Entered: 08/09/2013)
08/09/2013	<u>78</u>	DECLARATION of MICHAEL D. WILSON re: <u>76</u> Order to Show Cause, Set Deadlines/Hearings,,,,,, Document filed by Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton. (Wilson, Michael) (Entered: 08/09/2013)
08/09/2013	<u>79</u>	MEMORANDUM OF LAW in Opposition re: <u>76</u> Order to Show Cause, Set Deadlines/Hearings,,,,,, Document filed by Carlos Aguirre, Carlos Ahlstrom, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Robert Kissinger, Alvaro Fernando Noboa Ponton. (Wilson, Michael) (Entered: 08/09/2013)
08/14/2013	<u>80</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Specific Non-Dispositive Motion/Dispute: DI #76 Order to Show Cause. Referred to Magistrate Judge Andrew J. Peck. (Signed by Judge Lewis A. Kaplan on 8/14/2013) (tro) (Entered: 08/16/2013)
08/16/2013	<u>81</u>	ORDER SCHEDULING STATUS CONFERENCE: IT IS HEREBY ORDERED that a status conference is scheduled for Wednesday, August 21, 2013 at 2:30 p.m. before the undersigned in Courtroom 20D (500 Pearl Street). Counsel should be prepared to discuss the pending Order to Show Cause. The parties are to follow the "Individual Practices of Magistrate Judge Andrew J. Peck.", (Status Conference set for 8/21/2013 at 02:30 PM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck.) (Signed by Magistrate Judge Andrew J. Peck on 8/16/2013) (lmb) (Entered: 08/16/2013)
08/20/2013	<u>82</u>	MOTION for Benjamin Stillwell Thompson to Appear Pro Hac Vice. Filing fee \$ 200.00, receipt number 0208-8799979. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Maria C Aguirre. Return Date set for 8/21/2013 at 02:30 PM. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Text of Proposed Order)(Thompson, Benjamin) (Entered: 08/20/2013)
08/20/2013		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>82</u> MOTION for Benjamin Stillwell Thompson to Appear Pro Hac Vice. Filing fee \$ 200.00, receipt number 0208-8799979. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 08/20/2013)

08/20/2013	<u>83</u>	REPLY MEMORANDUM OF LAW in Support re: <u>75</u> Order,,, <i>SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF CROSS MOTION TO VACATE ATTACHMENT</i> . Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Fruit Importers Americas, Inc., Edward Hickey, Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Wilson, Michael) (Entered: 08/20/2013)
08/21/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 8/21/2013. AJP advises counsel for Aguirre's sister and counsel for Redi Fresh to move to intervene if they need any relief that plaintiff will not agree to. Plaintiff is to take discovery in support of PI Hearing. Discovery for attachment etc. motion is to be done by 9/30/13; status report due 10/4/13. (sc) (Entered: 08/29/2013)
08/23/2013	<u>84</u>	ORDER: IT IS HEREBY ORDERED that, pursuant to Title VII of the Federal Rules of Civil Procedure and Rule 6212(b) of the New York Civil Practice Law and Rules, the Clerk of the Court accept plaintiff's deposit of \$500.00 into the court's registry in the above matter. (Signed by Magistrate Judge Andrew J. Peck on 8/23/2013) (Copy of this order forwarded to Finance Unit on 8/23/2013.)(lmb) (Entered: 08/23/2013)
08/27/2013	<u>85</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 8/14/2013 before Judge Lorna G. Schofield. Court Reporter/Transcriber: Rose Prater, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/20/2013. Redacted Transcript Deadline set for 9/30/2013. Release of Transcript Restriction set for 12/2/2013.(Rodriguez, Somari) (Entered: 08/27/2013)
08/27/2013	<u>86</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 8/14/13 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 08/27/2013)
08/28/2013		First Supplemental ROA Sent to USCA (Electronic File). Certified Supplemental Indexed record on Appeal Electronic Files for <u>79</u> Memorandum of Law in Opposition, filed by Fruit Importers Americas, Inc., Carlos Aguirre, Edward Hickey, Carlos Ahlstrom, Alvaro Fernando Noboa Ponton, Robert Kissinger, Ecuadorian Line, Inc., <u>86</u> Notice of Filing Transcript, <u>75</u> Order, <u>84</u> Order, <u>78</u> Declaration, filed by Fruit Importers Americas, Inc., Carlos Aguirre, Edward Hickey, Carlos Ahlstrom, Alvaro Fernando Noboa Ponton, Robert Kissinger, Ecuadorian Line, Inc., <u>76</u> Order to Show Cause, Set Deadlines/Hearings, <u>81</u> Order, Set Hearings, <u>80</u> Order Referring Case to Magistrate Judge, <u>83</u> Reply Memorandum of Law in Support, filed by Fruit Importers Americas, Inc., Pan American Trading Company, Inc., Carlos Aguirre, Edward Hickey, Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc., <u>85</u> Transcript, <u>77</u> Declaration, filed by Fruit Importers Americas, Inc., Pacific Group Holding, Inc., Alvaro Fernando Noboa Ponton, Robert Kissinger, Pacific International Services, Inc., Ecuadorian Line, Inc., Carlos Aguirre, Pan American Trading Company, Inc., Edward Hickey, Carlos Ahlstrom, <u>82</u> MOTION for Benjamin Stillwell Thompson to Appear Pro Hac Vice. Filing fee \$ 200.00, receipt number 0208-8799979. Motion and supporting papers to be reviewed by Clerk's Office staff filed by Maria C Aguirre USCA Case Number 13-2730, were transmitted to the U.S. Court of Appeals. (tp) (Entered: 08/28/2013)
08/28/2013	<u>87</u>	FILING ERROR – ELECTRONIC FILING FOR NON-ECF DOCUMENT – CONSENT MOTION Stipulation and Proposed Order to Release Attached Funds of Non-party Maria Aguirre (Letter Motion) re: <u>75</u> Order,,, Document filed by Maria C Aguirre. (Attachments: # <u>1</u> Text of Proposed Order Stipulation and Proposed Order to Release Attached Funds of Maria Aguirre)(Thompson, Benjamin) Modified on 8/29/2013 (ldi). (Entered: 08/28/2013)

08/28/2013		***NOTE TO ATTORNEY THAT THE ATTEMPTED FILING OF Document No. <u>87</u> HAS BEEN REJECTED. Note to Attorney Benjamin Stillwell Thompson : THE CLERK'S OFFICE DOES NOT ACCEPT LETTERS FOR FILING, either through ECF or otherwise, except where the judge has ordered that a particular letter be docketed. Letters may be sent directly to a judge. (ldi) (Entered: 08/29/2013)
08/29/2013	<u>88</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 8/21/2013 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Tara Jones, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/23/2013. Redacted Transcript Deadline set for 10/3/2013. Release of Transcript Restriction set for 12/2/2013.(Rodriguez, Somari) (Entered: 08/29/2013)
08/29/2013	<u>89</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 8/21/13 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 08/29/2013)
09/03/2013	<u>90</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>82</u> Motion for Benjamin S. Thompson to Appear Pro Hac Vice. (Signed by Magistrate Judge Andrew J. Peck on 9/3/2013) (lmb) (Entered: 09/03/2013)
09/03/2013	<u>91</u>	STIPULATION AND ORDER: It is hereby ORDERED that the funds attached on or about August 15, 2013 pursuant to the Order of Attachment dated August 1, 2013, and held by garnishee bank, JPMorgan Chase, 2009 Broadway (at 73rd Street), New York, New York 10023, in account numbers (checking) 16606747765 and (savings) 82623580301 in the names of Carlos A. Aguirre and Maria Christina Aguirre, be and are hereby released from attachment, with prejudice, and it is further ORDERED that garnishee JPMorgan Chase effect the release of said attached funds immediately and without need of any further action of this Court and/or the Parties. (Signed by Magistrate Judge Andrew J. Peck on 9/3/2013) (lmb) Modified on 9/4/2013 (lmb). (Entered: 09/03/2013)
09/04/2013	<u>92</u>	NOTICE OF APPEARANCE by James H. Power on behalf of Redi Fresh Produce, Inc.. (Power, James) (Entered: 09/04/2013)
09/04/2013	<u>93</u>	NOTICE OF APPEARANCE by Marie Elizabeth Larsen on behalf of Redi Fresh Produce, Inc.. (Larsen, Marie) (Entered: 09/04/2013)
09/04/2013	<u>94</u>	NOTICE OF APPEARANCE by Warren Ernest Gluck on behalf of Redi Fresh Produce, Inc.. (Gluck, Warren) (Entered: 09/04/2013)
09/05/2013	<u>95</u>	ORDER TO SHOW CAUSE: Plaintiff NYKCool A.B. shall show cause as to why the Order of Attachment dated August 1, 2013 should not be vacated; ORDERED that on September 6, 2013 Holland & Knight LLP shall serve a copy of this Order to Show Cause together with a copy of the papers upon which it is based, on Plaintiff NYKCool A.B. via ECF, which service shall be deemed good and sufficient; and it is further ORDERED that answering papers, if any, to this motion shall be served on Holland & Knight LLP, so as to be received on [or Thursday, September 12, 2013] and reply thereto shall be due on Monday, September 16, 2013]. A hearing on this matter shall be held on [or Wednesday, September 18, 2013 at 9:30a.m.] (Show Cause Hearing set for 9/18/2013 at 09:30 AM before Magistrate Judge Peck). (Signed by Judge Paul A. Engelmayer, sitting in Part I on 9/5/2013) (dj) Modified on 9/5/2013 (dj). (Entered: 09/05/2013)
09/05/2013	<u>96</u>	DECLARATION of of Peter Malo in Support of Motion to Vacate or Modify the Order for Issuance of Attachment and Garnishment re: <u>95</u> Order to Show Cause,,, Document filed by Redi Fresh Produce, Inc.. (Larsen, Marie) (Entered: 09/05/2013)

09/05/2013	<u>97</u>	MEMORANDUM OF LAW in Support re: <u>95</u> Order to Show Cause,... Document filed by Redi Fresh Produce, Inc.. (Larsen, Marie) (Entered: 09/05/2013)
09/12/2013	<u>98</u>	DECLARATION in Opposition re: <u>96</u> Declaration, <u>97</u> Memorandum of Law in Support, <u>95</u> Order to Show Cause,... Document filed by NYKCool A.B.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 1(1), # <u>3</u> Exhibit 1(2), # <u>4</u> Exhibit 1(3), # <u>5</u> Exhibit 1(4), # <u>6</u> Exhibit 1(5), # <u>7</u> Exhibit 1(6), # <u>8</u> Exhibit 2, # <u>9</u> Exhibit 3, # <u>10</u> Exhibit 4, # <u>11</u> Exhibit 5, # <u>12</u> Exhibit 6)(Wolfson, Garth) (Entered: 09/12/2013)
09/12/2013	<u>99</u>	MEMORANDUM OF LAW in Opposition <i>Order to Show Cause</i> . Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 09/12/2013)
09/16/2013	<u>100</u>	DECLARATION of Peter Malo re: <u>95</u> Order to Show Cause,... Document filed by Redi Fresh Produce, Inc.. (Power, James) (Entered: 09/16/2013)
09/16/2013	<u>101</u>	REPLY MEMORANDUM OF LAW in Support re: <u>95</u> Order to Show Cause,... Document filed by Redi Fresh Produce, Inc.. (Power, James) (Entered: 09/16/2013)
09/18/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Show Cause Hearing held on 9/18/2013. 1. Oral argument on Redi Fresh OSC (Dkt No.95) – AJP finds on RRbasis that plaintiff did have confirmation hearing as required by CPLR – via conf. before Part 1 Judge and 8/21/13 conf. before AJP at which Redi Fresh counsel fully participated. 2. On consent, Redi Fresh can return bananas to Truitfruit, or sell to foreign market if it escrows the proceeds. 3. See transcript for other rulings. (dj) (Entered: 09/27/2013)
09/26/2013	<u>102</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 9/18/2013 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Ann Hairston, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/21/2013. Redacted Transcript Deadline set for 10/31/2013. Release of Transcript Restriction set for 12/30/2013.(Rodriguez, Somari) (Entered: 09/26/2013)
09/26/2013	<u>103</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 9/18/13 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 09/26/2013)
10/02/2013	<u>104</u>	Correspondence received in the Office of the Clerk of Court on September 9, 2013 from J.P. Morgan. (lmb) (Entered: 10/02/2013)
10/02/2013	<u>105</u>	Objection to Report and Recommendation. Document filed by Redi Fresh Produce, Inc.. (Power, James) (Entered: 10/02/2013)
10/02/2013	<u>110</u>	AMENDED COMPLAINT amending <u>1</u> Complaint, against Carlos Aguirre, Maria C Aguirre, Carlos Ahlstrom, Edward Hickey, Kelso Enterprises Ltd., Robert Kissinger, Alvaro Fernando Noboa Ponton, Pacific Fruit Inc., Redi Fresh Produce, Inc., South Pacific Shipping Co. Ltd., Truisfruit S.A. with JURY DEMAND.Document filed by NYKCool A.B. Related document: <u>1</u> Complaint, filed by NYKCool A.B. (rsh) (Entered: 10/03/2013)
10/03/2013	<u>106</u>	CLERK CERTIFICATE OF MAILING of one copy of the SUMMONS, ORDER TO SHOW CAUSE, SUPPORTING DOCUMENTS, INCLUDING INTER ALIA, AND AMENDED VERIFIED COMPLAINT mailed to TRUISFRUIT S.A. EL ORO INTERSECCION VIVERO – 5 JUNIO GUAYAQUIL, ECUADOR on 10/03/2013 by Federal Express tracking # FEDEX 8020-6951-6798-0402, to the individual of the foreign state, pursuant to the provisions of FRCP 4(f)(2)(c)(ii). (ca) (Entered: 10/03/2013)
10/03/2013	<u>107</u>	FILING ERROR – ELECTRONIC FILING FOR NON-ECF DOCUMENT – MOTION to Amend/Correct <i>Complaint.</i> , MOTION to Appoint <i>Receiver.</i> , MOTION for Joinder of <i>additional defendant.</i> , MOTION for Preliminary Injunction., MOTION for Order to Show Cause. Document filed by NYKCool

		A.B.. Return Date set for 10/21/2013 at 02:00 PM.(Wolfson, Garth) Modified on 10/4/2013 (Idi). (Entered: 10/03/2013)
10/03/2013	<u>108</u>	FILING ERROR – WRONG EVENT TYPE SELECTED FROM MENU – AFFIDAVIT in Support re: <u>107</u> MOTION to Amend/Correct <i>Complaint</i>. MOTION to Appoint <i>Receiver</i>. MOTION for Joinder of <i>additional defendant</i>. MOTION for Preliminary Injunction. MOTION for Order to Show Cause.. Document filed by NYKCool A.B.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 1(1), # <u>3</u> Exhibit 1(2), # <u>4</u> Exhibit 1(3), # <u>5</u> Exhibit 1(4), # <u>6</u> Exhibit 1(5), # <u>7</u> Exhibit 1(6), # <u>8</u> Exhibit 2, # <u>9</u> Exhibit 3, # <u>10</u> Exhibit 4, # <u>11</u> Exhibit 5, # <u>12</u> Exhibit 6, # <u>13</u> Exhibit 7, # <u>14</u> Exhibit 8)(Wolfson, Garth) Modified on 10/4/2013 (Idi). (Entered: 10/03/2013)
10/03/2013	<u>109</u>	FILING ERROR – WRONG EVENT TYPE SELECTED FROM MENU – MEMORANDUM OF LAW in Support re: <u>107</u> MOTION to Amend/Correct <i>Complaint</i>. MOTION to Appoint <i>Receiver</i>. MOTION for Joinder of <i>additional defendant</i>. MOTION for Preliminary Injunction. MOTION for Order to Show Cause.. Document filed by NYKCool A.B.. (Wolfson, Garth) Modified on 10/4/2013 (Idi). (Entered: 10/03/2013)
10/03/2013		CASHIERS OFFICE REGISTRY DEPOSIT dated 9/30/13, from Judge Magistrate Judge Andrew J. Peck, received \$250.00 from MAHONEY AND KEANE LLP Receipt Number 465401078141 on 10/3/13. (dig) (Entered: 10/03/2013)
10/03/2013		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – NON-ECF DOCUMENT ERROR. Note to Attorney Garth S. Wolfson to MANUALLY RE-FILE Document No. <u>107</u> Order To Show Cause. This document is NOT filed via ECF. (Idi) (Entered: 10/04/2013)
10/03/2013		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – EVENT TYPE ERROR. Note to Attorney Garth S. Wolfson to RE-FILE Document <u>108</u> Affidavit in Support of Motion. Use the event type Affidavit in Support (non-motion) found under the event list Other Answers. (Idi) (Entered: 10/04/2013)
10/03/2013		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – EVENT TYPE ERROR. Note to Attorney Garth S. Wolfson to RE-FILE Document <u>109</u> Memorandum of Law in Support of Motion. Use the event type Memorandum of Law in Support (non-motion) found under the event list Other Answers. (Idi) (Entered: 10/04/2013)
10/04/2013	<u>111</u>	AFFIDAVIT in Support. Document filed by NYKCool A.B.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 1(1), # <u>3</u> Exhibit 1(2), # <u>4</u> Exhibit 1(3), # <u>5</u> Exhibit 1(4), # <u>6</u> Exhibit 1(5), # <u>7</u> Exhibit 1(6), # <u>8</u> Exhibit 2, # <u>9</u> Exhibit 3, # <u>10</u> Exhibit 4, # <u>11</u> Exhibit 5, # <u>12</u> Exhibit 6, # <u>13</u> Exhibit 7, # <u>14</u> Exhibit 8)(Wolfson, Garth) (Entered: 10/04/2013)
10/04/2013	<u>112</u>	MEMORANDUM OF LAW in Support of <i>Order to Show Cause</i> . Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 10/04/2013)
10/04/2013	<u>113</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Edward A. Keane dated 10/4/2013 re: We believe submission of a one page letter brief, with attached excerpts from the deposition transcript and the Notice of Deposition, would fully set forth the NYKCool position. We ask permission to proceed In that manner, with answering letter briefs due five business days following submission of the NYKCool letter brief. ENDORSEMENT: NYKool discovery letter due 10/8, Redi Fresh opp. due 10/10. (Signed by Magistrate Judge Andrew J. Peck on 10/4/2013) (lmb) (Entered: 10/04/2013)
10/04/2013	<u>114</u>	ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER WITHOUT NOTICE PURSUANT TO FED R. CIV. P. 65(b): IT IS HEREBY ORDERED: Let the defendants show cause before the Honorable Andrew J. Peck, United States Magistrate Judge, at 500 Pearl Street, Courtroom 20D, pursuant to Rules 15, 64, 65, 66, 69, and 70 of Federal Rules of Civil Procedure, on the 21st day of Oct. 2013 at 2 o'clock in the afternoon or as soon thereafter as counsel can be heard why an Order shall not be entered permitting amendment of plaintiff's complaint so as to add TRUISFRUIT as a party defendant and enjoining TRUISFRUIT from further dissipation, alienation, and/or secreting of the

		defendant judgment debtors' assets and/or rights to sell or otherwise use the "Bonita" brands of bananas, including, inter alia, sales or shipments of Bonita bananas to the United States; setting aside the fraudulent transfer of the North American Bonita business; appointing a receiver under Section 5228 of the New York Civil Practice Law and Rules to administer TRUISFRUIT's Bonita commerce and the use of the "Bonita" brands of bananas with respect to North America, and granting to plaintiff such other and different relief as to the Court may seem just and proper. Let service of a copy of this Order and the accompanying Declaration and Exhibits; if served upon TRUISFRUIT S.A. at El Oro 101 Interseccion Vivero – 5 Junio, Guayaquil, Ecuador (service to be made concurrent with the amended complaint via Fed. R. Civ. P. 4 (h) (2) and 4 (f)), and if served upon Mess' rs Hill Rivkins LLP, to the attention of Mr. Michael D. Wilson, Esq., 45 Broadway, Suite 1500, N.Y., N.Y. 10006–3793, on or before 5 o'clock in the afternoon on 10/4/13 (service to be made either by courier, fax, hand or email); be deemed good and sufficient service. Answering papers, if any, including but not limited to affidavits, affirmations, declarations, exhibits and/or memorandum of law, shall be served so as to be received by counsel for the movant, Mahoney & Keane, LLP by email on or before 10/11/13 at 5PM as further set forth in this order. Show Cause Hearing set for 10/21/2013 at 02:00 PM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck. (Signed by Magistrate Judge Andrew J. Peck on 9/30/2013) (lmb) (Entered: 10/07/2013)
10/10/2013	<u>115</u>	LETTER addressed to Magistrate Judge Andrew J. Peck from James H. Power dated 10/10/13 re: Response to Plaintiff's Fax of Oct. 4, 2013.. Document filed by Redi Fresh Produce, Inc..(Power, James) (Entered: 10/10/2013)
10/11/2013	<u>116</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Alvaro Fernando Noboa Ponton served on 10/12/2012, answer due 11/2/2012. Service was made by E–mail. Document filed by NYKCool A.B.. (Keane, Edward) (Entered: 10/11/2013)
10/16/2013	<u>117</u>	DECLARATION re: <u>105</u> Objection (non–motion) <i>in Response</i> . Document filed by NYKCool A.B.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit A(1), # <u>3</u> Exhibit A(1)(1), # <u>4</u> Exhibit A(1)(2), # <u>5</u> Exhibit A(1)(3), # <u>6</u> Exhibit A(1)(4), # <u>7</u> Exhibit A(1)(5), # <u>8</u> Exhibit A(1)(6), # <u>9</u> Exhibit A(2), # <u>10</u> Exhibit A(3), # <u>11</u> Exhibit A(4), # <u>12</u> Exhibit A(5), # <u>13</u> Exhibit A(6))(Wolfson, Garth) (Entered: 10/16/2013)
10/18/2013	<u>118</u>	CROSS MOTION to Vacate <i>NOTICE OF CROSS MOTION TO FOR AN ORDER VACATING THE ORDER OF ATTACHMENT AND GARNISHMENT</i> .. Document filed by Carlos Ahlstrom, Ecuadorian Line, Inc., Edward Hickey, Pacific International Services, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. Return Date set for 10/21/2013 at 02:00 PM.(Wilson, Michael) (Entered: 10/18/2013)
10/18/2013	<u>119</u>	MEMORANDUM OF LAW in Support re: <u>118</u> CROSS MOTION to Vacate <i>NOTICE OF CROSS MOTION TO FOR AN ORDER VACATING THE ORDER OF ATTACHMENT AND GARNISHMENT</i> .. <i>MEMORANDUM OF LAW IN OPPOSITION IN OPPOSITION TO SHOW CAUSE APPLICATION AND IN SUPPORT OF CROSS–MOTION TO VACATE ATTACHMENT</i> . Document filed by Carlos Aguirre, Ecuadorian Line, Inc., Edward Hickey, Pacific Group Holding, Inc., Pan American Trading Company, Inc., South Pacific Shipping Co. Ltd.. (Wilson, Michael) (Entered: 10/18/2013)
10/21/2013	<u>120</u>	STIPULATION AND ORDER: It is hereby ORDERED that the funds attached on or about August 15, 2013 pursuant to the Order of Attachment dated August 1, 2013, and held by garnishee bank, JPMorgan Chase, 2009 Broadway (at 73rd Street), New York, New York 10023, in account numbers (checking) 0161124797 in the amount of \$30,986.18 and (savings) 0051121186 in the amount of \$10,277.18 in the names of Carlos A. Aguirre and Barrie Aguirre, be and are hereby released from attachment, with prejudice, and it is further ORDERED that garnishee JPMorgan Chase effect the release of said attached funds immediately and without need of any further action of this Court and/or the Parties. (Signed by Magistrate Judge Andrew J. Peck on 10/21/2013) (lmb) (Entered: 10/21/2013)
10/21/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 10/21/2013. –Status report due 10/25. (Gray, Diane) (Entered: 10/21/2013)

		10/21/2013)
10/25/2013	<u>121</u>	CLERK CERTIFICATE OF MAILING of one copy of the Summons and Amended Verified Complaint mailed to Alvaro Fernando Noboa Ponton on 10/25/2013 by Federal Express tracking # 8033 5774 9925, to the individual of the foreign state, pursuant to the provisions of FRCP 4(f)(2)(c)(ii). (jvs) (Entered: 10/25/2013)
10/25/2013	<u>122</u>	STIPULATION AND ORDER PARTIALLY VACATING ORDER OF ATTACHMENT: IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys for plaintiff and for defendants Carlos Aguirre and Edward Hickey, that the Order of Attachment issued by this court on August 1, 2013 be and hereby is vacated and of no effect as to defendants Carlos Aguirre and Edward Hickey only. (Signed by Magistrate Judge Andrew J. Peck on 10/25/2013) (lmb) (Entered: 10/25/2013)
10/25/2013	<u>123</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 10/21/2013 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Samuel Mauro, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/18/2013. Redacted Transcript Deadline set for 12/2/2013. Release of Transcript Restriction set for 1/26/2014.(Rodriguez, Somari) (Entered: 10/25/2013)
10/25/2013	<u>124</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 10/21/13 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 10/25/2013)
10/25/2013	<u>125</u>	LETTER addressed to Magistrate Judge Andrew J. Peck from Edward A. Keane dated 10/25/2013 re: We write as counsel for Plaintiff NYKCool A.B. and pursuant to direction at the most recent conference held in this matter on Oct. 21, 2013. Document filed by NYKCool A.B.(lmb) (Entered: 10/25/2013)
10/28/2013	<u>126</u>	CONSENT ORDER: 1. The Attached Funds presently under restraint by Garnishee in the amount of \$1,376,787.60 and any Future Bonita Funds are hereby ordered to be transferred by Redi Fresh Produce, Inc. and deposited in the Court Registry of the United States District Court for the Southern District of New York. Said transfer is to be accomplished by electronic funds transfer, referencing this case name and number and the amount restrained, to the Clerk of the Court, United States District Court for the Southern District of New York, at U.S. Treasury, Agency Locator #4654, ABA Routing #021030004; and 2. Upon receipt of the aforementioned deposits, the Clerk of the Court, as soon as his office allows, shall prepare the necessary forms for the purpose of placing said funds into the Court Registry Investment System, Interest Bearing Account as further set forth in this order. 10. Dkt. No. 118 and all prior TROs and Orders to Show Cause are now resolved., Motions terminated: <u>118</u> CROSS MOTION to Vacate <i>NOTICE OF CROSS MOTION TO FOR AN ORDER VACATING THE ORDER OF ATTACHMENT AND GARNISHMENT</i> . filed by Pan American Trading Company, Inc., Edward Hickey, Carlos Ahlstrom, Pacific International Services, Inc., South Pacific Shipping Co. Ltd., Ecuadorian Line, Inc. (Signed by Magistrate Judge Andrew J. Peck on 10/28/2013) (Copy forwarded to Finance on 10/28/2013)(lmb) Modified on 10/29/2013 (lmb). (Entered: 10/28/2013)
11/06/2013	<u>127</u>	CLERK'S CERTIFICATE OF DEFAULT AS TO: <i>Truisfruit S.A.</i> (dt) (Entered: 11/06/2013)
11/08/2013	<u>128</u>	MOTION for Default Judgment as to <i>Truisfruit S.A.</i> . Document filed by NYKCool A.B..(Wolfson, Garth) (Entered: 11/08/2013)
11/08/2013	<u>129</u>	DECLARATION in Support re: <u>128</u> MOTION for Default Judgment as to <i>Truisfruit S.A.</i> . Document filed by NYKCool A.B.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Wolfson, Garth) (Entered: 11/08/2013)

11/08/2013	<u>130</u>	MEMORANDUM OF LAW in Support re: <u>128</u> MOTION for Default Judgment as to <i>Truisfruit S.A.</i> . Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 11/08/2013)
11/08/2013	<u>131</u>	AFFIDAVIT OF SERVICE of Motion & Supporting Papers on 11/08/13. Service was made by Mail. Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 11/08/2013)
11/12/2013	<u>132</u>	STIPULATION AND ORDER OF WITHDRAWAL OF OBJECTION TO REPORT AND RECOMMENDATION: IT HEREBY IS STIPULATED AND AGREED, by and between the undersigned counsel for the below-identified parties that the Garnishee's Objection to the Report and Recommendation [D.E. #105] is hereby withdrawn, with prejudice and without interest or costs to any party. (Signed by Magistrate Judge Andrew J. Peck on 11/12/2013) (ft) (Entered: 11/12/2013)
11/18/2013		CASHIERS OFFICE CRIS DEPOSIT dated 10/28/13, from Judge Magistrate Judge Andrew J. Peck, \$142,785.72 from FEDERAL WIRE deposited on 11/15/2013, Receipt Number 14465400134 and placed into CRIS on 11/20/13. (dig) (Entered: 11/18/2013)
12/20/2013	<u>133</u>	REPORT AND RECOMMENDATION re: <u>128</u> MOTION for Default Judgment as to <i>Truisfruit S.A.</i> filed by NYKCool A.B. For the reasons set forth above, NYKCool's default judgment motion (Dkt. No. 128) should be GRANTED and judgment should be entered in favor of NYKCool against Truisfruit in the amount of \$8,787,157, and in addition the Court should enter a judgment directing the release of the attached funds (including those in the Court's registry) to NYKCool in partial satisfaction of NYKCool's judgment. Objections to RRdue by 1/6/2014. (Signed by Magistrate Judge Andrew J. Peck on 12/20/2013) Copies Sent By Chambers. (lmb) (Entered: 12/20/2013)
01/03/2014	<u>134</u>	OBJECTION to <u>133</u> Report and Recommendations Document filed by Carlos Aguirre, Fruit Importers Americas, Inc., Edward Hickey. (Attachments: # <u>1</u> Affidavit Declaration of Michael Wilson with Exhibits A-D)(Wilson, Michael) (Entered: 01/03/2014)
01/17/2014	<u>135</u>	RESPONSE re: <u>134</u> Objection to Report and Recommendations. Document filed by NYKCool A.B.. (Wolfson, Garth) (Entered: 01/17/2014)
01/30/2014	136	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution, Judgment served on Citibank, Corporate Litigation for International Operations on 7/26/13. Service was accepted by Tahamina Kazi, Legal Serv. Specialist. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment number 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	137	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution, Judgment served on J.P. Morgan Chase on 7/26/13. Service was accepted by Dhanmattre Khilall. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment #13,1392, case #12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	138	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution, Judgment served on The Bank of New York Mellon on 7/26/13. Service was accepted by Thomas McCauley. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment #13,1392, case number 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	139	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution, Judgment served on Deutsche Bank, A.G. on 7/26/13. Service was accepted by Diana Hvi, Paralegal. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment #13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)

01/30/2014	140	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Writ of Execution of Judgment served on Bank of America on 7/26/13. Service was accepted by Anthony Santiago, Personal Banker. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment #13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	141	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution, Judgment served on Standard Chartered Bank on 7/24/13. Service was accepted by Max Lerner, Legal Counsel. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment #13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	142	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution of Judgment served on HSBC Bank USA N.A. on 7/26/13. Service was accepted by Shobic Ramasar. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment #13,1392, case #12 Civ. 5754. Judgment Unsatisfied. Eric B Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	143	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution of Judgment served on Wachovia Bank on 7/26/13. Service was accepted by Sejin Lin, Store Manager, VP. Document filed by NYKCool A.B. I hereby certify an return that I have not received any funds for Judgment #13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	144	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution of Judgment served on UBS on 7/26/13. Service was accepted by Richard Andrews. Document filed by NYKCool A.B. I hereby certify and return that I have not received any funds for Judgment #13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal (sc) (Entered: 02/03/2014)
01/30/2014	145	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution of Judgment served on Credit Suisse on 7/26/13. Service was accepted by Deborah S. Burstein – Director Grace Shentwo. I hereby certify and return that I have not received any funds for Judgment #13,1392, case number # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal Document filed by NYKCool A.B. (sc) (Entered: 02/03/2014)
01/30/2014	146	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution of Judgment served on Bank of China, Legal Processing Unit on 7/26/13. Service was accepted by Shi Deng., Legal Dept. I hereby certify and return that I have not received any funds for Judgment #13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Document filed by NYKCool A.B.. (sc) (Entered: 02/03/2014)
01/30/2014	147	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Writ of Executon of Judgment served on American Express Bank on 7/26/13. Service was accepted by Curtis Campbell, Team Leader. I certify and return that I have not received any funds for Judgment #13,1392, case #12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal Document filed by NYKCool A.B. (sc) (Entered: 02/03/2014)
01/30/2014	148	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution of Judgment served on Hill Rivkins, LP on 7/26/13. Service was accepted by Gerard White, Partner of Firm. I certify and return that I have not received any funds for Judgment#13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal Document filed by NYKCool A.B. (sc) (Entered: 02/03/2014)
01/30/2014	149	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Writ of Execution of Judgment served on Cadwalader Wickersham & Taft LLP on 7/26/13. Service was accepted by Owens Ridges Jr., Assistant to the Managing Attorney. I hereby certify and return that I have not received any funds for

		Judgment #13,1392, case # 12 Civ. 5754. Judgment Unsatisfied. Eric B. Timberman, Acting U.S. Marshal Document filed by NYKCool A.B.. (sc) (Entered: 02/03/2014)
03/11/2014	<u>150</u>	ORDER re <u>128</u> Motion for Default Judgment. Plaintiffs motion for a default judgment as to Transfruit, S.A. [DI 128] is granted in all respects, substantially for the reasons set forth in the report and recommendation of Magistrate Judge Andrew J. Peck, dated December 20, 2013. The limited objections of Fruit Importers Americas, Inc., Edward Hickey and Carlos Aguirre are overruled both on the merits and on the additional ground that they failed to oppose the motion before the Magistrate Judge and failed to place before the Magistrate Judge the evidence upon which they now rely. (Signed by Judge Lewis A. Kaplan on 3/11/2014) (cd) (Entered: 03/11/2014)
03/11/2014		Transmission to Judgments and Orders Clerk. Transmitted re: <u>150</u> Order on Motion for Default Judgment, to the Judgments and Orders Clerk. (cd) (Entered: 03/11/2014)
03/18/2014	<u>151</u>	JUDGMENT PURSUANT TO RULE 54 (B) OF THE FEDERAL RULES OF CIVIL PROCEDURE: IT IS ORDERED, ADJUDGED and DECREED that judgment in favor of NYKCool A.B. against Truisfruit S.A. in the amount of \$ 8,787,157.00, jointly and severally with the other defendants against which judgment has been previously entered, together with interest and costs thereon. That the funds as above described held in the Court's CRIS account with respect to this matter be turned over to the plaintiff, with accumulated interest, less any authorized registry fees, and that; This Judgment is hereby certified and entered by the Court, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, which has determined there is no just reason for delay of the entry of final judgment and that the Court has and does hereby direct that the judgments granted hereby shall be final judgments for all purposes, and as further set forth in this document. (Copy sent to the Cashiers Office) (Signed by Judge Lewis A. Kaplan on 3/18/2014) (cd) (Additional attachment(s) added on 3/19/2014: # <u>1</u> Supplement) (cd). (Entered: 03/19/2014)
04/03/2014	<u>152</u>	ORDER: Counsel are to advise the Court in writing by April 10, 2014 whether plaintiff wishes to proceed to trial, to dismiss the remainder of the case without prejudice as to the individual defendants (and any other unresolved parties or issues), or any other proposal. SO ORDERED. (Signed by Magistrate Judge Andrew J. Peck on 4/3/2014) (ajs) (Entered: 04/03/2014)
04/03/2014		Writ of Execution Issued as to Truisfruit, S.A. on 4/3/2014 in the amount of \$ 7,267,211.37 in favor of NYKCOOL A.B. against Truisfruit S.A. (Signed by Clerk of Court Ruby Krajick on 4/3/2014) (dt) (Entered: 04/03/2014)
04/08/2014		CASHIERS OFFICE REGISTRY DISBURSEMENT as per <u>151</u> Judgment, dated 03/18/2014, from Judge Lewis A. Kaplan, on 04/03/2014 disbursed to pay NYKCOOL A.B. \$1,519,945.63 Check No. 00998977 dated 04/03/2014 Check picked up by Edward Keane 04/04/2014 (jd) (Entered: 04/08/2014)
04/11/2014	<u>153</u>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Edward A. Keane dated 4/10/2014 re: Response to the 4/3/2014 order. ENDORSEMENT: Joint PTO, in conformance with Judge Kaplan's requirements, due 5/2/14. Default motion vs. Noboa due 4/25. Opposition by Noboa, if any, due 5/9. (Motion due by 4/25/2014. Joint Pretrial Order due by 5/2/2014. Responses due by 5/9/2014) (Signed by Magistrate Judge Andrew J. Peck on 4/11/2014) Copies Sent By ECF By Chambers(cd) (Entered: 04/11/2014)
04/14/2014	<u>154</u>	CLERK'S CERTIFICATE OF DEFAULT as to Alvaro Noboa. (ca) (Entered: 04/14/2014)
04/17/2014	<u>155</u>	NOTICE OF APPEARANCE by John Charles Ohman on behalf of Truisfruit S.A.. (Ohman, John) (Entered: 04/17/2014)
04/17/2014	<u>156</u>	FIRST NOTICE OF INTERLOCUTORY APPEAL from <u>151</u> Judgment,,,,. Document filed by Truisfruit S.A.. Filing fee \$ 505.00, receipt number 0208-9578751. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Attachments: # <u>1</u> Exhibit Judgment Appealed

		From)(Ohman, John) (Entered: 04/17/2014)
04/18/2014		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>156</u> Notice of Interlocutory Appeal. (tp) (Entered: 04/18/2014)
04/18/2014		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>156</u> Notice of Interlocutory Appeal, filed by Truisfruit S.A. were transmitted to the U.S. Court of Appeals. (tp) (Entered: 04/18/2014)